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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,362	09/22/2003	Leann Hill	354	4558

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EXAMINER

NGUYEN, TAM M

ART UNIT PAPER NUMBER

3764

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/664,362

Applicant(s)

HILL, LEANN

Examiner

Tam Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/22/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Objections

1. Claims 1-8 are objected to because of the following informalities:

Claim 1, line 5, delete "the front portion" and insert --a front portion--.

Claim 1, line 6, delete "the rear portion" and insert --a rear portion--.

Claim 1, line 10, insert --means-- after "motor".

Claims 2-8 are also objected to for being dependent on an objected base claim.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sze (6,740,010) in view of Mendel et al. (4,863,157), Pyle (US 2003/0045402), Jensen (3,473,649) and Forcillo (6,612,970).

2. As to claims 1-7, Sze discloses a stationary rehabilitation exercise device comprising a frame (12), handle bars (34) connected to the front portion of the frame, a horizontally slidable seat (26) connected to the rear portion of the frame, left and right pedals (18) and an electric motor means (36) connected to the frame and said pedals to turn said pedals (see Fig. 2 & Col. 5, lines 46-50). Sze does not disclose that the rehabilitation exercise device is in the form of a tricycle having a front axle with a wheel,

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a rear axle with two wheels, pedals that have brackets and handlebars that are adjustable. Mendel discloses a rehabilitation exercise device in the form of a tricycle having a front axle with a wheel and a rear axle with two wheels (see Fig. 1), Pyle discloses a stationary rehabilitation cycling exercise device in the form of an automobile (see Fig. 1 & Page 1, Paragraph 0016) that includes a programmable motor to set the speed and time of operation of the motor (see Page 3, Paragraph 0027), Jensen discloses a stationary cycling exercise device in the form of a horse (see Fig. 1) while Forcillo discloses a stationary cycling device having vertically and horizontally slidable handle bars (3) and pedals with brackets (38) (see Fig. 1). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to 1) make Sze's stationary device into any of an array of forms such as a tricycle since the practice of making exercise devices into various forms to entertain the user is well known in the exercise art, 2) make Sze's handle bars vertically and horizontally slidable so that users of all shapes and sizes can comfortably grip the handlebars during exercise and 3) add brackets to Sze's pedals to assist the user in keeping his/her feet on the pedals during exercise.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sze (6,740,010) in view of Mendel et al. (4,863,157), Pyle (US 2003/0045402), Jensen (3,473,649) and Forcillo (6,612,970) and in further view of Piaget (5,833,584).

3. As to claim 8, Sze, Mendel et al., Pyle, Jensen and Forcillo disclose a modified exercise device as described above. Sze does not disclose a tray attached to the front portion of the frame. Piaget discloses an exercise device that includes a tray (107) at

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the front portion of the frame of the device. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to add a tray to the front of Sze's frame to hold various objects that an exerciser might have on hand such as reading material or a drink.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tam Nguyen whose telephone number is 571-272-4979. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 571-272-4778. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

June 10, 2005



GREGORY L. HUSON
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